(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
LETTERS PATENT APPEAL NO.24 OF 2006
IN
WRIT PETITION NO.4493 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.	Court's or Judge's orders

Shri Vivek R.Walawalkar i/by Shri S.R.Bhalekar for the appellant.

CORAM: R.M.S.KHANDEPARKAR
&
SMT.R.S.DALVI, JJ

DATED: 28TH MARCH, 2006.

P.C.

1. Heard. The learned advocate appearing for the appellant has fairly conceded that after passing of the impugned order, the Debt Recovery Tribunal has allowed the appeal filed by the respondent No.1 and has passed the following order.

"(A) Both the Securitisation Applications are allowed with

costs.

(B) Respondent No.1’s notice Dt.11.11.2004 U/s.13(2) of SARFAESI Act is declared illegal and inoperative and is hereby quashed.

(C) The Respondent No.1 Bank shall not take any steps including physical dispossession of Applicant in S.A.No.16 of 2005 except in accordance with law pursuant to the notice.

(D) The original judgement shall be kept in S.A.No.16 of 2005 and its Xerox true copy in S.A.No.17 of 2005."

2. In view of the said order passed by the Debt Recovery Tribunal, the question of interference in the impugned order by this Court does not arise. Suffice to observe that the Bank can very well file the application before the Civil Court and seek modification of the order passed by the Civil Court. In case, such application is

filed, the Civil Court will have to pass the order in accordance with the provisions of law without being influenced by the order of the learned Single Judge in Writ Petition No.4493 of 2005. The appeal accordingly stands disposed of.

(R.M.S.KHANDEPARKAR, J)

(SMT.R.S.DALVI, J)